

**In Re: Gurumurthi Chetti**

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**SooperKanoon Citation :** [sooperkanoon.com/795387](http://sooperkanoon.com/795387)

**Court :** Chennai

**Decided On :** Sep-27-1918

**Reported in :** 48Ind.Cas.988

**Judge :** Kumaraswamy Sastri, J.

**Appellant :** In Re: Gurumurthi Chetti

**Judgement :**

ORDER

**Kumaraswamy Sastri, J.**

1. The petitioner obtained in April 1917 a license Exhibit C, which licensed him to possess and sell fireworks. It limited the maximum quantity possessed at any time to (fifty) 50 lbs. In August 1917 he obtained the permit Exhibit B to possess fireworks not exceeding 1,000 lbs. for a period of seven days from 7th November 1917 to 13th November 1917. In October 1917 he got a license Exhibit A to import 10,000 lbs. of fireworks, the license being valid till 31st December 1917. He was charged and convicted for possessing 2,325 lbs. of China crackers on 7th November 1917 and thus contravening the terms of the license Exhibit B. His plea before the Magistrate was as follows: 'I admit what I did is wrong I did so misunderstanding the rules. I am guilty.' He was sentenced to pay a fine of Rs. 100 which, on appeal, was reduced to Rs. 50.

2. Two points are urged in revision. It is argued (1) that China crackers are not explosives, and (2) that the license to import being for 10,000 lbs., he is not guilty of any offence.

3. As regards the first point, Section 4, Clauses 1 and 2 of the Indian Explosives Act, IV of 1584, are wide enough to include crackers and the only question is, whether the crackers in the possession of the accused fall under Rule 3 of the rules framed, which exclude toy fireworks from the operation of the Act. The onus is on the accused to show that the fireworks in his possession fall within the description of toy fireworks. This is in all cases a question of fact and, in the present case, I do not see how in the absence of any evidence I can hold that the crackers are toy fireworks, especially when he took the trouble of getting licenses for crackers on the footing that they fell under the Explosives Act. Emperor v. Rachapa Gurappa Hattarvat 37 Ind. Cas. 491 and Emperor v. Bansidhar 5 Ind. Cas. 911 referred to by the petitioner's Vakil proceeded on the nature of the fireworks in question in those cases, and cannot be taken as authorities to show that crackers are as a rule to be excluded from the category of explosives.

4. The second objection is that the possession of the import license superseded the terms of the license Exhibits B and C. I am unable to agree with this contention, the effect of which will be to enable an importer to keep in his possession at one time and in one place quantities of fireworks more than 1,000 lbs. Rule 71 states that a permit may be granted to a holder of a license in forms A, B, C or D to possess any quantity of manufactured fireworks not exceeding 1,000 lbs., and Rule 35 states that an explosive shall not be possessed except in accordance with the conditions of a license granted under the rules. An exception is made in cases of permits granted under Rules 68, 69, 70 or 71.

5. I am of opinion that the whole scheme of the rules is to require a separate license for possession, at any one time and place, of explosives in addition to a license, to import during a particular period. Where permit for possession is granted limiting the quantity to be possessed at any specified period or at any particular place, the permission to import a larger quantity during the longer period must be read subject to the quantity in possession being exhausted or reduced

below the maximum for which possession is permitted. The permission to import a larger quantity is given for purposes of preventing a separate application each time the stock is reduced or exhausted and it will be unreasonable to suppose that, while the rules framed under the Act fixed 1,000 lbs. as the maximum in the case of manufacturers or retail dealers, it left importers free from any restrictions as to the quantity they can keep or store so long as they did not exceed the maximum quantity they were allowed to import during any year. Public safety was the reason for fixing the maximum quantity which a person can possess and the public danger is the same whether the explosives are stocked by an importer or retail dealer.

6. The rules framed are not quite clear but the construction placed by me seems to follow from the various provisions and safeguards as to possession of explosives.

7. I see no grounds to interfere and dismiss the petition.

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